

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 28943

PERMIT 20325

LICENSE _____

ORDER TO MODIFY PERMIT CONDITION 15

WHEREAS:

1. Permit 20325 was issued to John Hancock Mutual Insurance Company on May 8, 1989 pursuant to Application 28943.
2. A petition to modify Permit Condition 15 has been filed with the State Water Resources Control Board.
3. The Board has determined the petitioned change will not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 15 of the permit be amended to read:

For the protection and restoration of wildlife, permittee shall construct and maintain in the reservoir 40 waterfowl nesting structures. Prior to construction of the nesting structures, permittee shall receive Department of Fish and Game approval of: (1) plans for construction; (2) the location of the placement of the structures within the reservoir; and (3) a program for maintenance of the structures. All 40 nesting structures shall be constructed and installed in the reservoir by February 28, 1990. The nesting structure maintenance program shall, at a minimum, consist of an annual inspection by the permittee and a representative of the Department of Fish and Game before the last day of February each year to assure that the nesting structures are in good repair and properly located.

By August 1, 1995, permittee and the Department of Fish and Game shall review jointly the effectiveness of the nesting structures. If the Department of Fish and Game, determines that the nesting structures have been an effective mitigation for project impacts on seasonal wetland habitat, then the structures shall continue to be maintained by permittee, satisfactory to the Department of Fish and Game, for the life of the project. If the Department of Fish and Game determines that the nesting structures are not an effective mitigation, then by October 30, 1995, permittee and the Department of Fish and Game shall develop and submit jointly to the Chief, Division of Water Rights, for approval, alternative measures acceptable to the Department of Fish and Game to mitigate project impacts on seasonal wetland habitat.

If permittee and the Department of Fish and Game cannot mutually agree on acceptable alternative mitigation measures, the Chief, Division of Water Rights will determine appropriate measures. Until alternative measures are implemented, the existing nesting structures shall be maintained in the reservoir if the Department of Fish and Game determines they are at least partially effective. Alternative mitigation measures shall be implemented by permittee within two years of the date of approval by the Chief, Division of Water Rights. (0390300)

(0490500)

Dated: **MARCH 05 1990**



for Walter G. Pettit, Chief
Division of Water Rights

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20325

(CORRECTION)

Application 28943 of John Hancock Mutual Life Insurance Company1900 Point West Way, Suite 188, Sacramento, CA 95815filed on December 3, 1986, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Innamed Stream Madeline Plains (a closed basin)

2. Location of point of diversion:

	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
<u>Direct Diversion and Diversion to Offstream Storage</u>	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	34	36N	12E	MD
<u>North 2,484 feet and West 93 feet from SE corner of Section 34</u>					
<u>Offstream Storage Younger Reservoir</u>		34	36N	12E	MD

County of Lassen

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Wildlife Enhancment	Younger Reservoir within Section 34		34	36N	12E	MD
Irrigation	A net area of 13,000 acres within a gross area of 14,460 acres located within:					
	Sections 17, 18, 19, 29, 30, 31 and 32			36N	13E	MD
	Sections 3, 4, 9, 10, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36			36N	12E	MD
	Sections 7, 8, 9, 10, 15, 16, 17, and 18			35N	13E	MD
	Sections 10, 11, 12, 13, 14, and 15			35N	12E	MD

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 10 cubic feet per second by direct diversion to be diverted from May 1 to September 30 of each year and 8,500 acre-feet per annum by storage to be collected from October 1 of each year to June 30 of the succeeding year. The total amount of water to be taken from the source shall not exceed 10,500 acre-feet per water year of October 1 to September 30. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 60 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 31, 1997. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing,

the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. During the season specified for direct diversion in this permit, the total quantity and rate of water directly diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of direct diversion and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of direct diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

13. Rights under this permit are, and shall be, specifically subject to existing rights determined by the Tule Lake Reservoir Adjudication, Superior Court, Lassen County, No. 17327 insofar as said adjudicated rights are maintained. (0000023)

14. Prior to making a request for license, or before license action will be considered by the State Water Resources Control Board, permittee shall consult with the Division of Water Rights and perform an irrigation system evaluation. A report on the evaluation shall be prepared by a person trained or experienced in irrigation system design and management, and submitted to the Board for approval.

All cost-effective water conservation measures identified in the irrigation system evaluation report shall be implemented prior to issuance of a license. (000029C)

15. For the protection and restoration of wildlife, permittee shall construct and maintain in the reservoir 40 floating waterfowl nesting structures. Prior to construction of the nesting structures, permittee shall receive Department of Fish and Game approval of: (1) plans for construction; (2) the location of the placement of the structures within the reservoir; and (3) a program for maintenance of the structures. All 40 nesting structures shall be constructed and installed in the reservoir by February 28, 1990. The nesting structure maintenance program shall, at a minimum, consist of an annual inspection by the permittee and a representative of the Department of Fish and Game before the last day of February each year to assure that the nesting structures are in good repair and properly located.

By August 1, 1995, permittee and the Department of Fish and Game shall review jointly the effectiveness of the nesting structures. If the Department of Fish and Game, determines that the nesting structures have been an effective mitigation for project impacts on seasonal wetland habitat, then the structures shall continue to be maintained by permittee, satisfactory to the Department of Fish and Game, for the life of the project. If the Department of Fish and Game determines that the nesting structures are not an effective mitigation, then by

October 30, 1995, permittee and the Department of Fish and Game shall develop and submit jointly to the Chief, Division of Water Rights, for approval, alternative measures acceptable to the Department of Fish and Game to mitigate project impacts on seasonal wetland habitat. If permittee and the Department of Fish and Game cannot mutually agree on acceptable alternative mitigation measures, the Chief, Division of Water Rights will determine appropriate measures. Until alternative measures are implemented, the existing nesting structures shall be maintained in the reservoir if the Department of Fish and Game determines they are at least partially effective. Alternative mitigation measures shall be implemented by permittee within two years of the date of approval by the Chief, Division of Water Rights.

(0390300)

(0490500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MAY 0 8 1989

STATE WATER RESOURCES CONTROL BOARD

Walter M. Hunt
Chief, Division of Water Rights